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November 5, 1993

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Stop Code 1170  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: MM Docket No. 93-214

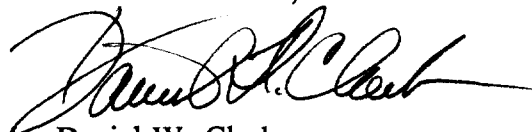
Dear Mr. Caton:

Transmitted herewith, on behalf of Lawrence F. Loesch and Margaret A. Loesch, licensees of Radio Station WERX-FM, Edenton, North Carolina, are an original and four copies of "Further Comments Of Lawrence and Margaret Loesch" in the above-captioned rule making proceeding.

If any questions should arise during the course of your consideration of these comments, it is respectfully requested that you communicate with this office.

Very truly yours,

THARRINGTON, SMITH & HARGROVE



Daniel W. Clark  
Counsel to  
Lawrence F. Loesch and  
Margaret A. Loesch

DWC/cty  
Enclosures

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BEFORE THE  
**FEDERAL COMMUNICATIONS COMMISSION**  
WASHINGTON, D.C.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of the )  
Table of Allotments ) **MM Docket No. 93-214**  
FM Broadcast Stations )  
Section 73.202(b) of the Rules )  
(Ocracoke, North Carolina) )

To: The Chief  
Policy and Rules Division  
Mass Media Bureau

**FURTHER COMMENTS  
OF LAWRENCE AND MARGARET LOESCH**

Lawrence F. Loesch and Margaret A. Loesch, licensees of Radio Station WERX-FM, Edenton, North Carolina ("WERX"), by their attorney and pursuant to Section 1.420 of the Rules, hereby submit their further comments to resolve an existing conflict in proposals now before the Commission on the Notice of Proposed Rule Making ("Notice"), issued in the above-captioned docket.

By the Notice, the Commission proposes to amend the FM Table of Allotments by substituting Channel 224C1 for Channel 225A at Ocracoke, North Carolina.

WERX desires to change its present allotment and city of license from Channel 273C2 at Edenton, North Carolina, to Channel 273C1 at Columbia, North Carolina. This proposal has been determined to be mutually exclusive with the proposal set forth in the Notice to substitute Channel 224C1 for 225A at Ocracoke, North Carolina.

In a counterproposal filed on September 17, 1993, WERX proposed that Channel 224A be substituted at Pine Knoll Shores for present Channel 272A to clear all allocation constraints with the exception of the Ocracoke, North Carolina, Class C1 requested upgrade. On or about October 4, 1993, Ocracoke Broadcasters ("OB"), permittee of a new FM Broadcast Station at Ocracoke, North Carolina, submitted Reply Comments in this proceeding arguing its proposed substitution of Channel 224C1 for Channel 225A at Ocracoke was to be preferred over the upgrade of WERX.

These further comments are filed to resolve the conflict between WERX's and OB's proposals. Upon further analysis, it has been demonstrated by WERX's engineers that Channel 290A can be substituted at Pine Knoll Shores (rather than 224A) at the same site and thereby remove the mutual exclusivity with OB. As set out in detail in the attached Engineering Statement of Clifton G. Moor, Bromo Communications, Channel 290 clears all allocation constraints for Pine Knoll Shores and because no further site restrictions are necessary and Channel 290 is usable at the same application site, all coverages and population figures contained in WERX's original filing remain the same.

WERX's proposal would thus result in a preferential arrangement of allotments from the standpoint of the public interest. If WERX is permitted to operate as proposed, an additional 34,675 persons will receive 60 dBu service from the station. See Engineering Statement of Bromo Communications attached as Exhibit A at p. 2 to WERX's original counterproposal. Because the proposal described herein will remove the mutual exclusivity between WERX's upgrade and OB's upgrade, WERX's proposed upgrade and increase in service to the public can be achieved in tandem with the Ocracoke upgrade.

## Conclusion

WERX respectfully submits that the public interest would best be served by amending the FM Table of Allotments as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Edenton, N.C.	261C2, 273C2	261C2
Columbia, N.C.	289C1	273C1, 289C1
Pine Knoll Shores, N.C.	272A	290A
Ocracoke, N.C.	225A	224C1

This the 5 day of November, 1993.

Respectfully submitted,

**LAWRENCE F. LOESCH AND  
MARGARET A. LOESCH**

By: 

Mark J. Prak  
Daniel W. Clark

Their Attorneys

Tharrington, Smith & Hargrove  
Attorneys at Law  
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COUNTERPROPOSAL TO MM DOCKET #93-214  
FILED BY LAWRENCE & MARGARET LOESCH  
REQUESTING CHANNEL 273C1  
COLUMBIA, NORTH CAROLINA  
October 1993

Technical Exhibit  
TE-1

Bromo Communications, Inc.  
P.O. Box 21760 - 1331 Ocean Boulevard, Suite 201  
St. Simons Island, Georgia 31522  
(912) 638-5608

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COUNTERPROPOSAL TO MM DOCKET #93-214  
FILED BY LAWRENCE & MARGARET LOESCH  
REQUESTING CHANNEL 273C1  
COLUMBIA, NORTH CAROLINA  
October 1993

RESOLUTION TO CONFLICT

This Resolution to Conflict is being filed to MM Docket #93-214, RM-8287, and is filed on behalf of Lawrence & Margaret Loesch ("Loesch"), licensees of WERX-FM, Edenton, North Carolina. Loesch wishes to upgrade from the present Channel 273C2, licensed to Edenton, North Carolina, to Channel 273C1, licensed to Columbia, North Carolina.

The previously filed Loesch counterproposal suggested Channel 224A be substituted at Pine Knoll Shores, North Carolina. Further examination reveals that Channel 290A can be substituted at Pine Knoll Shores at the identical application site and remove the mutual exclusivity with Ocracoke Broadcasters, petitioners for Channel 224C1 at Ocracoke, North Carolina. Exhibit #1 of this report is the allocation study indicating Channel 290 clears all allocation constraints for Pine Knoll Shores. Because no further site restrictions are necessary and this newly proposed Pine Knoll Shores channel is usable at the same application site, all coverages and population figures filed in the original Loesch counterproposal remain the same.

With the above Resolution of Conflict, Loesch requests  
§73.207(b) reflect the following:

	<u>Present</u>	<u>Proposed</u>
Edenton, NC	261C2, 273C2	261C2
Columbia, NC	289C1	273C1, 289C1
Pine Knoll Shores, NC	272A	290A
Ocracoke, NC	224C1 (Proposal)	224C1

All of the information contained herein is true and correct to the best of our knowledge and belief. All data relating to authorized, applied or proposed facilities (FM stations) was extracted from the NTIA database as updated in September 1993. We assume no liability for omissions or errors in that database. Should questions arise during consideration of this counterproposal, we would welcome the opportunity to discuss the matter by phone at (912) 638-5608.

BROMO COMMUNICATIONS INC  
P.O. Box M - ST SIMONS ISLAND GA 31522

Pine Knoll Shores, NC  
Searching at Application Site

REFERENCE	CLASS A	DISPLAY DATES
34 42 38 N		DATA 09-29-93
76 37 52 W	Current rules spacings	SEARCH 10-27-93
----- CHANNEL 290 -105.9 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WSFLFM	293C1	New Bern	NC	299.0	75.49	75.0	0.49 <
LI CN	35 02 27	77 21 11	100.000 kW	279M	46.9	46.6	
	Caravelle B/C GRF of Coastal				BLH860127KC		
WRSF	289C1	Columbia	NC	15.6	135.65	133.0	2.65 <
LI CN	35 53 18	76 13 50	100.000 kW	187M	84.3	82.7	
	Jones, Eastern of the Outer Ba				BLH840316AA		
WRDU	291C	Wilson	NC	309.5	183.16	165.0	18.16
LI CN	35 45 36	78 11 04	100.000 kW	411M	113.8	102.6	
	Voyager Communications V, Inc				BLH840912CR		
WXQRFM	288C2	Jacksonville	NC	254.2	77.84	55.0	22.84
CP CN	34 31 10	77 26 52	19.000 kW	242M	48.4	34.2	
	Marine Broadcasting Corporati				BPH930406IB		

**290A ALLOCATION STUDY**

**SITE IS TRADITIONAL PINE KNOLL SHORES  
APPLICATION SITE.**

**EXHIBIT #1**

**LAWRENCE & MARGARET LOESCH  
WERX-FM  
REQUESTS 273C1  
COLUMBIA, NORTH CAROLINA**

**OCTOBER 1993**

**BROMO**  
**COMMUNICATIONS**  
St Simons Island, Georgia  
BROADCAST  
TECHNICAL CONSULTANTS  
Washington, D.C.



AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

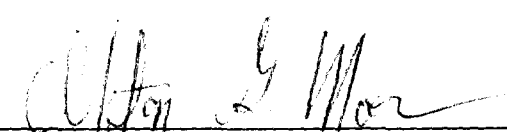
State of Georgia       )  
St. Simons Island     )                   ss:  
County of Glynn       )

CLIFTON G. MOOR being duly sworn, deposes and says that he is an officer of Bromo Communications, Inc. Bromo has been engaged by Lawrence & Margaret Loesch, licensee of WERX-FM Radio Station, to prepare the attached Technical Exhibit.


His qualifications are a matter of record before the Federal Communications Commission. He has been active in broadcast engineering since 1966.

The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

*This the 27th day of September, 1993.*

  
\_\_\_\_\_  
CLIFTON G. MOOR  
Affiant

Sworn to and subscribed before  
me this the 27th day of September, 1993.

  
\_\_\_\_\_  
Notary Public, State of Georgia  
My Commission Expires: September 8, 1995

**CERTIFICATE OF SERVICE**

I, Martha K. Trull, a legal assistant in the law firm of Tharrington, Smith & Hargrove, hereby certify that a copy of the forgoing **FURTHER COMMENTS OF LAWRENCE AND MARGARET LOESCH** were served on the following parties in the manner indicated:

Via Hand Delivery:

Ms. Victoria McCuley  
Acting Chief, Allocations Branch  
Policy and Rules Division  
2025 M Street, N.W., Room 8322  
Stop Code - 1800D5  
Washington, D.C. 20554

Via U.S. Certified Mail, Postage Prepaid:

William J. Pennington, III  
Post Office Box 2506  
Pawleys Island, S.C. 29585  
Counsel to  
Ocracoke Broadcasters

This the 8<sup>th</sup> day of November, 1993.

  
\_\_\_\_\_  
Martha K. Trull